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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,169	04/27/2005	Andrew David Bacon	Q85454	9237

23373 7590 01/09/2006  
SUGHRUE MION, PLLC  
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WASHINGTON, DC 20037

EXAMINER
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LIETO, LOUIS D

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/520,169	BACON ET AL.	
	Examiner	Art Unit	
	Louis D. Lieto	1632	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6,9-12 drawn to a composition for the delivery to a cell of a nucleic acid and an assistor protein comprising vesicles formed of amphiphilic components.

Group II, claim(s) 7, 8, drawn to a composition for the delivery to a cell of multiple nucleic acids and multiple assistor proteins comprising vesicles formed of amphiphilic components.

Group III, claim(s) 13-16, drawn to a method of generating an immune response in an animal by administering a composition comprising a nucleic acid and an assistor protein comprising vesicles formed of amphiphilic components.

Group IV, claim(s) 17-24, drawn to a process for forming a liposomal composition.

The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Inventions I-IV lack a unifying special technical feature. The applicant provided reference of WO 97/28818 (14.08.97), hereafter referred to as Craig et al., teaches the administration of a nucleic acid encoding a first epitope and a protein containing a second epitope (Abstract). Craig et al. teaches that the first and second epitopes are preferably epitopes from the same antigen, and that the first and second epitope may comprise the same immuno-

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dominant epitope (pg. 4, lines 25-35). Further, the applicant provided reference of Gregoriadis et al. (1999) Methods 19: 156-162; Abstract, discloses liposomes for the use as vaccines that contain protein antigens as well as antigen encoding DNA vaccines. Therefore, it would have been obvious to the ordinary practitioner in the art at the time of the instant invention to use a liposome to administer a vaccine comprising a nucleic acid encoding an epitope and a protein that contains the same epitope in view of the teachings of Craig et al. and Gregoriadis et al. The cited prior art provides the requisite teaching, suggestion and motivation to make and use the claimed invention.

Since the claimed subject matter was known from the prior art document of Gregoriadis et al. the subject matters of claims 1-24 are not so linked as to form a single general inventive concept (Rule 13.1 PCT) as they appear not to be linked by a new and inventive common special technical feature in the sense of Rule 13.2 PCT by taking into account the state of the art.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Lou Lieto whose telephone number is (571) 272-2932. The examiner can normally be reached on Monday-Friday, 9am-5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ram Shukla can be reached on (571) 272-0735. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Patent applicants with problems or questions regarding electronic images that can be viewed in the PAIR can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6


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am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days.

Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Dr. Louis D. Lieto  
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Art Unit 1632

  
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GROUP 1800/1632